

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND**

In re: Vision Adventures, LLC,
Debtor

BK No: 13-10660
Chapter 7

Joseph M. DiOrio, Chapter 7 Trustee
of Vision Adventures, LLC,
Plaintiff

v.

A.P. No. 15-01006

Linda K. Davis Griffin
and Shirley Davis,
Defendants

AMENDED ORDER RELATED TO ENTRY OF DEFAULT
(this relates to Doc. ## 8, 9, 10, 11, 12, 15, and 16)

1. On June 2, 2015, the plaintiff filed an application for entry of default (Doc. #8).

Before the Court acted on that application, the plaintiff also filed a motion for entry of default judgment (Doc. #9) and a proposed judgment by default (Doc. #10). On June 22, 2015, the Court granted the application for entry of default (Doc. #11) and the Clerk of the Court entered default against the defendants (Doc. #12).

2. On June 30, 2015, the defendants filed an objection to the plaintiff's application for entry of default (Doc. #15).¹ This objection was untimely because responses to the application for entry of default were due by June 18, 2015. On July 6, 2015, the plaintiff filed a response to the defendants' objection (Doc. #16).

¹ The Court notes that the defendants' objection was signed by only one of the defendants, which signature appears to be that of defendant Linda K. Davis Griffin. The defendants are representing themselves without counsel, and to the Court's knowledge Ms. Davis Griffin is not an attorney and has not entered an appearance on behalf of defendant Shirley Davis, and thus she cannot file a document on behalf of Ms. Davis. If Ms. Davis wishes the Court to consider any objection she has to the plaintiff's application and motion, she must file a separate objection bearing her signature. In addition, any future joint filings by the defendants must be signed by both of them.

3. In light of the defendants' *pro se* status and their late-filed objection to the application for entry of default, I will treat the objection as a motion to set aside the entry of default filed by defendant Linda K. Davis Griffin pursuant to Fed. R. Civ. P. 55(c) (applicable via Fed. R. Bankr. P. 7055) (hereinafter the "Motion to Vacate"), and afford the plaintiff until August 18, 2015, to file a supplemental memorandum of law in response to the Motion to Vacate.

4. As defendant Shirley Davis has not signed the Motion to Vacate (*see* footnote 1), to the extent she wishes the Court to consider on her own behalf a motion to set aside the default judgment, she must file such separate motion bearing her signature by August 4, 2015.

5. With regard to the plaintiff's motion for default judgment, the plaintiff's fraudulent transfer and breach of fiduciary duty claims set forth in his Complaint appear to be claims regarding which this Court may not have constitutional authority to enter a final judgment absent the knowing and voluntary consent of all the parties. *See Stern v. Marshall*, 131 S.Ct. 2594 (2011); *Wellness Intern. Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015); *see also McCarthy v. Direct Global Commodities (In re El-Atari), LLC*, 2012 WL 260748 (Bankr. E.D. Va. Jan. 27, 2012) (entering report and recommendation that default judgment be entered by the district court on plaintiff's claims seeking to augment the bankruptcy estate); *Richardson v. BDSM Corp. (In re Tevilo Industries, Inc.)*, 2011 WL 4793343 (Bankr. W.D. Mich. Aug. 30, 2011) (same). Therefore, in addition to responding to the Motion to Vacate, the plaintiff's supplemental memorandum shall also address this issue, including whether this Court should, instead of entering a final default judgment, submit a report and recommendation to the United States District Court for the District of Rhode Island, recommending that court enter default judgment.

6. The defendants shall have until September 8, 2015 to file any response(s) to the plaintiff's supplemental memorandum.

Date: July 21, 2015

By the Court,



Diane Finkle
Diane Finkle
U.S. Bankruptcy Judge